

# Order

Michigan Supreme Court  
Lansing, Michigan

March 26, 2014

147759

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

TOMMY BROWN,  
Defendant-Appellant.

SC: 147759  
COA: 308510  
Wayne CC: 11-001735-FC

Robert P. Young, Jr.,  
Chief Justice

Michael F. Cavanagh  
Stephen J. Markman  
Mary Beth Kelly  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano,  
Justices

On order of the Court, the application for leave to appeal the July 30, 2013 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the sentences imposed by the Wayne Circuit Court for the defendant's first-degree criminal sexual conduct convictions, and we REMAND this case to the trial court for resentencing. The trial court imposed an invalid sentence when it imposed seven consecutive sentences for the defendant's seven convictions of first-degree criminal sexual conduct. Pursuant to MCL 750.520b(3), "The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction." Having reviewed the record, we agree with the trial prosecutor who argued at sentencing that the trial court had discretion to impose consecutive sentences for *at most* three of the defendant's first-degree criminal sexual conduct convictions, because the three sexual penetrations that resulted in those convictions "ar[ose] from the same transaction." That is, the three sexual penetrations "grew out of a continuous time sequence" and had "a connective relationship that was more than incidental." *People v Ryan*, 295 Mich App 388, 402-403 (2012). On remand, the trial court shall resentence the defendant in accordance with MCL 750.520b(3). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 26, 2014

  
Clerk